



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Kenneth T. Heruth; Keith A. Miesel	Confirmation No.	8229
Serial No.:	10/825,953		
Filed:	April 15, 2004	Customer No.:	28863
Examiner:	Brian T. Gedeon		
Group Art Unit:	3766		
Docket No.:	1023-363US01		
Title:	<u>CONTROLLING THERAPY BASED ON SLEEP QUALITY</u>		

Commissioner for Patents
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER

Dear Sir:

The owner of record of a 100 percent interest in the above-identified application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the term of prior U.S. Application No. 10/825,955; 10/825,964; 10/825,965; 10/826,925; 11/081,811 and 11/081,873. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors and/or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims

10/11/2006 SSESHE1 00000003 10825953

03 FC:1814

130.00 DP

cancelled by a reexamination certification, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The undersigned is an attorney of record.

Date:

10/5/06

By:


Name: Jason D. Kelly

Reg. No. 54,213

SHUMAKER & SIEFFERT, P.A.
8425 Seasons Parkway, Suite 105
St. Paul, Minnesota 55125
Telephone: 651.735.1100
Facsimile: 651.735.1102